

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 205 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SAMUBEN MAHETAPSINH JHALA SARPANCH,

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners
MR SN SHELAT, ADDL. AG with MR AD OZA,
GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of Judgment: 20/10/2000

CAV JUDGMENT

In this petition under Article 226 of the Constitution, the Sarpanch of village Dalani Muvadi, Sarpanch of village Baini Muvadi, another resident of Jhalani Muvadi, Ex-Sarpanch of Amrapur, a member of Kesharpur Gram Panchayat and a member of Jhalani Muvadi

Gram Panchayat have challenged the decision contained in the notification dated 31.12.1999 issued by the State Government under Section 7 of the Bombay Land Revenue Code excluding the above named 6 villages from Talod Taluka and placing them in Prantij taluka of Sabarkantha District.

2. In a separate judgment delivered today in Special Civil Application No. 10459 of 1999, this Court has already examined the legal contentions regarding the interpretation of the provisions of Section 7 of the Bombay Land Revenue Code, 1879 and Section 9 of the Gujarat Panchayats Act, 1993 and the contention about the application of the principle of audi alteram partem in such matters. For the reasons already recorded therein, this Court reiterates the view taken in the said decision that the village panchayat, members of the village panchayat or the residents of the village do not have any right to be heard before the State Government exercises its powers under the provisions of Section 7 of the Bombay Land Revenue Code for including a particular village in a particular taluka or to shift/exclude it from one taluka and to include it in another taluka.

3. Prior to reconstitution of the districts and talukas in October, 1997, the above named 6 villages were in Prantij taluka. Prantij taluka came to be bifurcated into Prantij taluka and Talod taluka. Thereupon by notification dated 15.10.1997, the above named 6 villages came to be included in Talod taluka. Now by notification dated 31.12.1999, they are excluded from Talod Taluka and included in Prantij taluka.

4. On facts it is contended on behalf of the petitioners that these 6 villages are closer to Talod than to Prantij as will be clear from the following chart:

Name of village	Distance from Talod (in Kms)	Distance from Prantij (In Kms)
-----------------	------------------------------	--------------------------------

Dalani Muvadi	10	12
---------------	----	----

Baini Muvadi	9	10
--------------	---	----

Amarapur	6	8
----------	---	---

Kasharpur	6	10
-----------	---	----

Zalani Muvadi	7	11
---------------	---	----

It is further contended that the people in the villages have closer business relations with the markets at Talod where there is an agricultural produce market committee. It is further contended that 100% voters in these villages belong to Baxi Panch community out of which 95% voters belong to Kshatriya community and that the Cabinet Sub Committee had also not recommended exclusion of these village from Talod or to include them in Prantij taluka. The action is challenged as mala fide with a view to supporting BJP in Prantij more particularly at the last election the BJP got less votes from three village out of the six villages and, therefore, attempt is made to boost up their political prospects in Talod taluka by shifting them to Prantij.

5. In the affidavit in reply filed by Mr Pankaj S. Pandya, Deputy Secretary, Revenue Department of the State Government, the allegations are denied and it is submitted that the distance between the respective villages and Prantij is only marginally longer as compared to the distance between the villages and Talod, by hardly one to four kms. But there is river Khari between these villages and Talod. There is no adequate transportation facility to approach from these villages to Talod taluka centre whereas adequate facility of transportation is there to reach Prantij taluka centre as there is no river between these villages and Prantij. The people of these villages are having more commercial relations with Prantij than with Talod. Both Talod and Prantij have Agricultural Produce Market Committees. The Cabinet Sub Committee which was constituted for reviewing the reconstitution of talukas had also recommended to include these villages in Prantij taluka. Earlier also these six villages were in Prantij taluka. It was upon bifurcation of Prantij taluka into Prantij and Talod talukas that they were included in Talod taluka on 15th October, 1997. Jhalani Muvadi village panchayat has passed the resolution expressing their willingness to include the said villages in Prantij taluka because during the monsoon season the approach to reach Talod taluka centre is getting closed as there is river Khari between the said villages and Talod taluka centre and there is no direct transportation bus facility while the facility to reach Prantij taluka centre is easily available in all seasons.

6. As per the settled legal position, this Court

does not sit in appeal over the decision of the Government in such policy matters. It is true that there is nominal variation of distance between the villages and Talod on the one hand and the respective villages and Prantij on the other hand, but as per the stand of the respondents, there are no transportation facilities to approach Talod from the respective villages whereas there are adequate transportations facilities to reach Prantij. Both Talod and Prantij have Agricultural Market Product Committees and the people of these six villages have better facilities to be connected with Prantij. Moreover, the residents of the villages are not prevented from going to Prantij for their business activities at Prantij. Hence, none of the legal rights of the residents of the villages can be said to have been affected. The petitioners have, therefore, not made out any case for interference of this Court under Article 226 of the Constitution with the impugned decision contained in the Government Notification dated 31.12.1999.

8. The petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

(M.S. Shah, J.)

sundar/-